REMARKS

Applicants have amended claims 1, 66, 70 and 72, and have added new claims 88-137. Claims 1 and 29-137 are presently pending in the application.

Applicants would like to thank Examiner Ralph A. Lewis for his thorough search and review of the prior-art, his careful consideration and examination of the present application and claims, and his indication that claims 38, 39, 49-58, 60, 70 and 76-78 contain allowable subject matter. In particular, Examiner Lewis stated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten these claims as new claims 88-137 and submit that such new claims are thus allowable.

Obvious-Type Double Patenting Rejection

Claims 1 and 29-87 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-28 of the parent case of the subject application entitled DEVICE FOR DENTAL CARE AND WHITENING. In response, Applicants submit herewith a Terminal Disclaimer.

Rejections Under 35 U.S.C. § 102 and 103

The Office Action rejected claims 1, 29-37, 40, 48, 59, 61-63, 65-69, 71-75 and 79-87 on prior art. Regarding these rejections, claims 1, 29-31, 34-37, 40, 41, 43, 45, 47, 48, 61, 63, 66-68, 71-75, 80-84, 86 and 87 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Jensen et al. (U.S. Patent No. 6,391,283), claims 1, 29-33, 35-37, 63, 65-68 and 71 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Kipke et al. (U.S. Patent No. 5,487,662), and claims 1 and 59 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Oxman et al. (U.S. Patent No. 5,718,577). Further, claims 42, 44, 46, 62, 69 and 79 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Jensen et al., and claims 32, 67 and 85 are rejected under 35 U.S.C. 103(a) as

allegedly being unpatentable over Jensen et al. in view of Kipke et al. Applicants respectfully traverse these rejections as they relate to the claims, as amended.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (Emphasis added; Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Thus, for a rejection under 35 U.S.C. 102 to be proper, every limitation recited in each rejected claim, which is rejected as being anticipated by a prior-art reference, must be clearly disclosed in that single prior-art reference. In the instant case, Applicants respectfully submit that none of the cited references disclose each and every element that is in, for example, the rejected independent claims as amended, and, therefore, none of the cited references anticipate any of the claims under 35 U.S.C. § 102. Accordingly, independent, amended claims 1, 66 and 72, and the claims dependent therefrom, are not anticipated by the prior art of record under 35 U.S.C. § 102.

Additionally, Applicants submit that none of the presently pending claims would have been obvious over the relied-upon prior art of record. In particular, Applicants submit that the prior art of record does not provide a required suggestion or motivation to render the present claims obvious under 35 U.S.C. § 103. Moreover, it is respectfully submitted that the dependent claims rejected under 35 U.S. C. § 103 are allowable at least because of their dependencies from the corresponding independent, amended claims.

Applicants thus respectfully requests that the Examiner reconsider and withdraw the rejections based upon 35 U.S.C. § 102 and §103.

In view of the above, Applicants submit that the application is now in condition for allowance, and an early indication of same is requested. The Examiner is invited to contact the undersigned with any questions.

Respectfully submitted,

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